IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 385 of 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GUJARAT STATE ROAD TRANSPORT CORPORATION
Versus
MIRABEN MADHAVJI SHAH

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Appearance :
MS MAYA DESAI FOR MR MD PANDYA for Appellant.
MR TARAK DAMANI for respondents.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 09/05/2007

ORAL JUDGMENT

Ms. Maya Desai, learned counsel for the appellant.

Shri Tarak Damani, learned counsel appears and submits that he would be representing all the respondents.

Learned counsel for the appellant submitted that in view of the death of the original claimant during the pendency of the claim petition, the right to sue in relation to personal injuries suffered by the deceased to claim compensation on the ground of shock and suffering would not be available to the legal representative because the action was personal to the injured and cannot be treated as a transferable, actionable claim. She submitted that the learned Tribunal had awarded a sum of Rs.7000/- towards pain, shock and suffering, Rs.5000/- towards medical expenses and loss to the estate and Rs.5000/- towards shortening of expectation of life. According to her, the award of Rs.5000/- towards loss of estate can only be justified by the respondents and under the circumstances, the award made in favour of the respondents deserves to be modified.

Shri Damani, learned counsel for the respondents on the other hand submitted that the question relating to substitution of the legal representatives to claim compensation on the basis of shortening of enjoyment of life and pains and suffering was not free from doubt, and therefore, the learned Tribunal was not unjustified in making such award in favour of the claimants. His submission is that in a matter relating to award of Rs.17,000/- only, this court should not interfere.

Taking into consideration the totality of the circumstances and that the amount involved is only Rs.17,000/-, that the accident took place somewhere in

the year 1982 and the rights of the parties were crystallized on 24.06.83, it would now be unjust to ask the respondents-claimants to refund sum of Rs.12,000/-.

Even otherwise, I am told that there is a practice of this Court not to interfere in the matters where the claims are very small. Taking into consideration totality of the circumstances, I hold that the present is not a fit case for making any interference. The appeal is dismissed.

[R.S.GARG, J.]

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